

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

DOCKET FILE COPY ORIGINAL

TYSONS CORNER

8000 TOWERS CRESCENT DRIVE

SUITE 1200

VIENNA, VIRGINIA 22182

(703) 918-2300

FACSIMILE

(703) 918-2450

www.kelleydrye.com

NEW YORK NY
WASHINGTON, DC
CHICAGO IL
STAMFORD CT
PARSIPPANY NJ

BRUSSELS BELGIUM
HONG KONG

AFFILIATE OFFICES
BANGKOK THAILAND
JAKARTA INDONESIA
MUMBAI INDIA
TOKYO JAPAN

DIRECT LINE (703) 918-2317

EMAIL jprice@kelleydrye.com

August 19, 2003

RECEIVED

AUG 19 2003

BY HAND DELIVERY

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Marlene H. Dortch
Secretary
Federal Communications Commission
Office of the Secretary
c/o Vistronix, Inc
236 Massachusetts Avenue, N.E
Suite 110
Washington, D C. 20002

Re. NOS Communications, Inc., Affinity Network Incorporated and NOSVA
Limited Partnership EB Docket No. 03-96; File No. EB-02-TC-119

Dear Ms. Dortch:

Enclosed are pleadings in the above-referenced matter. Each was filed with the Secretary's Office, but due to the fact that each was filed in an envelope addressed to the Judge's chambers, each received a Bureau stamp and were not filed with your office as part of the record of the above-referenced manner.

Please, therefore, accept the following copies for filing:

- Joint Objections and Responses to Enforcement Bureau's Second Request for Production of Documents, originally filed July 29, 2003;
- Joint Request for Issuance of Subpoena and Notice of Deposition, originally filed July 23, 2003;
- Objections and Responses to Enforcement Bureau's Request For Admission of Facts and Genuineness of Documents, originally filed July 11, 2003;

NO REC'D - 8/19/03
LISA J. C. 117

KELLEY DRYE & WARREN LLP

Marlene H. Dortch
August 19, 2003
Page Two

- Affinity Network Incorporated's Objections and Responses to Enforcement Bureau's First Interrogatories, filed July 1, 2003;
- NOSVA Limited Partnership's Objections and Responses to Enforcement Bureau's First Interrogatories, originally filed July 1, 2003;
- Joint Motion for Confidential Treatment of Objections and Responses to Enforcement Bureau's First Set of Interrogatories, originally filed July 1, 2003, and
- Joint Motion for Extension of Time to Respond to the Enforcement Bureau's First Set of Interrogatories, originally filed June 20, 2003.

Please also date stamp a copy of these materials filed today and return the stamped copy to the messenger.

Please contact the undersigned should you have any questions.

Very truly yours,



W. Joseph Price

WJP:nlb
Enclosures

RECEIVED - FCC

JUL 11 2003

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communication Commission
Bureau / Office

In the Matter of

) EB Docket No. 03-96

)

) File No. EB-02-TC-119

)

NOS Communications, Inc.,

)

Acct. No. 200332170003

Affinity Network Incorporated and

)

NOSVA Limited Partnership

)

FRN No. 0004942538

RECEIVED

AUG 19 2003

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**OBJECTIONS AND RESPONSES TO ENFORCEMENT BUREAU'S REQUEST
FOR ADMISSION OF FACTS AND GENUINENESS OF DOCUMENTS**

NOS Communications, Inc. ("NOS"), Affinity Network, Incorporated ("Affinity,"
"ANT"), NOSVA Limited Partnership ("NOSVA") (collectively and otherwise referred to as the
"Companies"), and to the extent they may lawfully be parties to this proceeding, the principals of
the Companies, by counsel and pursuant to the Rules and Regulations of the Federal
Communications Commission, hereby submit Objections and Responses to Enforcement
Bureau's Request for Admission of Facts and Genuineness of Documents.

GENERAL OBJECTIONS

All of the General Objections set forth herein are incorporated in each of the specific
responses to the Admission Requests set forth below and have the same force and effect as if
fully set forth therein.

The Companies object to each and every Admission Request to the extent they seek
information that is neither relevant to the subject matter of this litigation nor reasonably
calculated to lead to the discovery of admissible evidence.

The Companies object to each and every Admission Request to the extent they seek information protected by the attorney-client privilege, work product doctrine or any other privilege or protection against disclosure.

The Companies object to each and every Admission Request to the extent they are overbroad, unduly burdensome or oppressive.

The Companies object to these Admission Requests to the extent they seek to impose obligations beyond those required or allowed by the Rules and Regulations of the Federal Communications Commission.

The Companies object to these Admission Requests as premature to the extent they seek facts in support of a contention, claim or defense or the identity of all persons or entities with responsive information. Discovery is ongoing and the Companies' investigation continues. The Companies reserve the right to supplement their responses as material and information and the identities of persons or entities are made known to or discovered by the Companies.

The Companies object to these Admission Requests to the extent that they seek the disclosure of information that is not within the Companies' possession, custody, or control, or the production or identification of documents that are not within the Companies' possession, custody or control.

By responding to an Admission Request the Companies do not admit that the information provided is relevant or otherwise admissible as evidence at trial or for any other purpose. Rather, they reserve their rights to object to the admissibility of any and all information provided in response to these Admission Requests on any and all grounds.

The Companies object to the production of confidential or proprietary information or trade secrets prior to entry of a protective order restricting disclosure of such information in a manner to be agreed upon by the parties.

The Companies object to the Definition of “NOS/ANI” as overbroad such that a meaningful response, which may be reasonably calculated to lead to admissible evidence, cannot be provided.

The Companies object to the Definition “Winback” on the grounds of burden, scope, relevance and breadth. As defined, the Bureau seeks information regarding “winback” programs not identified in its Order to Show Cause and Notice of Opportunity for Hearing (“Show Cause Order”).¹ As with most telecommunications companies, the Companies engage in a variety of efforts to “winback” customers that (1) have recently left its service, (2) are in the process of leaving its service, but still have lines left behind, or (3) it has received an indication that the customer might soon completely or partially leave its service. The Show Cause Order – including each attached affidavit and script – relates solely to the second type of “winback” effort of the Companies – an attempt to win back customers who have partially left its service (referred to as “Winback I” within the Companies).² “Winback I” efforts were typically

¹ In re NOS Communications, Inc., Affinity Network Incorporated and NOSVA Limited Partnership, Order to Show Cause and Notice of Opportunity for Hearing, EB Docket No. 03-09 (April 7, 2003).

² As the Show Cause Order directs, the Hearing is limited in scope to whether the Company engaged in “improper inducements [that] apparently included the Companies contacting their former customers and describing ‘problems’ that the customers’ chosen carriers were allegedly having in completing the customers’ requests to establish new service.” Id. at para. 2. Or, as the Commission specifically alleged, “In reality, the consumers had already been switched to their new preferred carriers and the Companies’ marketing campaign was an apparently misleading scheme to trick consumers into returning to the Companies’ service.” Id.; see also para. 16. In other words, the Show Cause Order is limited to a practice referred to within the Company as a “Winback I,” “partial line winback” or “partial line save” (herein referred to as “Winback I”) – an attempt to win back customers that have left the Companies’ service, but that have left lines behind with the Companies.

triggered by the Companies noticing that some lines with it had no recent traffic, while others still had traffic, or by receiving a code from the local exchange carrier that the customer has changed service providers, while active lines remained with the Companies. This was not an infrequent event when a customer sought to change carriers. The other “winback” efforts of the Companies are neither discussed nor alluded to in the Show Cause Order and, therefore, could not be reasonably calculated to lead to the discovery of admissible evidence.

The Companies, therefore, object to the Definition of “Winback” to the extent it seeks information regarding the “winback” program not identified in its Show Cause Order. The Show Cause Order does not reflect any issue with any other “winback” initiative except for the initiative related to attempting to “winback” customers that have partially left the Companies’ service. To include all other “winback” initiatives would greatly broaden the scope identified within the Show Cause Order. “Winback I” was limited to certain of sales agents, reached far fewer customers and had scripts separate and distinct from other “winback” scripts. The Companies’ response, therefore, will be limited to the scope, relevance and breadth as identified in the Show Cause Order.

In addition to the General Objections, the Companies reserve all rights to supplement or modify any of its responses as the discovery process continues.

Subject to the above objections, the Companies respond as follows.

RESPONSES AND SPECIFIC OBJECTIONS

Request No. 1:

1. NOS/ANI operates as a common carrier under Title II of the Act.

Objections and Response to Request No. 1:

The Companies hereby incorporate their General Objections to the extent applicable. Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Interpretation of the phrase “operates as a common carrier under Title II of the Act” calls for a legal conclusion. The Companies admit that they provide interstate and international long distance service and are authorized to do so pursuant to section 214 of the Act.

Request No. 2:

2. NOS/ANI has operated as a common carrier under Title II of the Act since 1989.

Objections and Response to Request No. 2:

The Companies hereby incorporate their General Objections to the extent applicable. Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Interpretation of the phrase “operated as a common carrier under Title II of the Act” calls for a legal conclusion. The Companies admit providing interstate and international long distance service during the period of time identified in the Show Cause Order.

Request No. 3:

3. NOS Communications, Inc. is a Maryland corporation with a registered address at Suite 508, 6110 Executive Boulevard, Rockville, MD 20852.

Objections and Response to Request No. 3:

The Companies hereby incorporate their General Objections to the extent applicable. Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 4:

4. NOS also conducts business under the following business names: International Plus, O11, INETBA (or Internet Business Association), and I-Vantage.

Objections and Response to Request No. 4:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 5:

5. ANI is a California corporation with a registered address at 4380 Boulder Highway, Las Vegas, NV 89121.

Objections and Response to Request No. 5:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 6:

6. ANI also conducts business under the following business names: HorizonOne Communications ("HorizonOne") and QuantumLink Communications ("QuantumLink").

Objections and Response to Request No. 6:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 7:

7. NOSVA is a Maryland corporation with a registered address at 6701 Democracy Boulevard, Suite 811, Bethesda, MD 20817.

Objections and Response to Request No. 7:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection with respect to “corporation.” NOSVA is a limited partnership with a corporate general partner. Admitted that NOSVA has the above-identified registered address.

Request No. 8:

8. NOSVA also conducts business under the following business name: CierraCom Systems.

Objections and Response to Request No. 8:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 9:

9. NOS/ANI is a switchless reseller of MCI/WorldCom long distance service.

Objections and Response to Request No. 9:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 10:

10. NOS/ANI is a switchless reseller of local service in certain states.

Objections and Response to Request No. 10:

The Companies hereby incorporate their General Objections to the extent applicable.
Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 11:

11. NOS/ANI's customers are primarily businesses.

Objections and Response to Request No. 11:

The Companies hereby incorporate their General Objections to the extent applicable.
Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 12:

12. NOS/ANI's customers are primarily small and medium-sized companies.

Objections and Response to Request No. 12:

The Companies hereby incorporate their General Objections to the extent applicable.
Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 13:

13. All of the entities identified in Requests For Admission ("RFA") 1-8 share the same office space.

Objections and Response to Request No. 13:

The Companies hereby incorporate their General Objections to the extent applicable.
Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Vague and ambiguous with respect to the phrase “share the same office space.” Without waiving said objections, admitted.

Request No. 14:

14 All of the entities identified in RFA 1-8 share the same employees.

Objections and Response to Request No. 14:

The Companies hereby incorporate their General Objections to the extent applicable. Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Vague and ambiguous with respect to the phrase “share the same employees.” Without waiving said objections, admitted.

Request No. 15:

15. All of the entities identified in RFA 1-8 have in common the same directors.

Objections and Response to Request No. 15:

The Companies hereby incorporate their General Objections to the extent applicable. Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, denied.

Request No. 16:

16. All of the entities identified in RFA 1-8 have in common the same officers.

Objections and Response to Request No. 16:

The Companies hereby incorporate their General Objections to the extent applicable. Subject to, and without waiving their objections, the Companies respond as follows:

Admitted that entities identified in Admission Requests 1-8 have officers in common.

Request No. 17:

17. All of the entities identified in RFA 1-8 have in common the same shareholders.

Objections and Response to Request No. 17:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, denied.

Request No. 18:

18. At some time during the period December 2001 to the present, Joseph Koppy was an officer of NOS.

Objections and Response to Request No. 18:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 19:

19. At some time during the period December 2001 to the present, Joseph Koppy was an executive of ANI.

Objections and Response to Request No. 19:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Vague and ambiguous with respect to the term "executive." Without waiving said objections, admitted.

Request No. 20:

20. At some time during the period December 2001 to the present, Joseph Koppy was an officer of NOSVA.

Objections and Response to Request No. 20:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, denied. NOSVA does not have officers.

Request No. 21:

21. At some time during the period December 2001 to the present, Robert Lichtensten was an officer of NOS.

Objections and Response to Request No. 21:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 22:

22. At some time during the period December 2001 to the present, Robert Lichtensten owned 50% of the capital stock of NOS.

Objections and Response to Request No. 22:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 23:

23. At some time during the period December 2001 to the present, Robert Lichtensten was an executive of ANI.

Objections and Response to Request No. 23:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Vague and ambiguous with respect to the term “executive.” Without waiving said objections, Robert Lichtenstein is an officer and director of ANI.

Request No. 24:

24. At some time during the period December 2001 to the present, Robert Lichtenstein was an executive of NOSVA.

Objections and Response to Request No. 24:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Vague and ambiguous with respect to the term “executive.” Without waiving said objections, Robert Lichtenstein is a limited partner of NOSVA.

Request No. 25:

25. At some time during the period December 2001 to the present, Michael Arnau was an officer of NOS.

Objections and Response to Request No. 25:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 26:

26. At some time during the period December 2001 to the present, Michael Arnau was an executive of ANI.

Objections and Response to Request No. 26:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Vague and ambiguous with respect to the term “executive.” Without waiving said objections, Michael Arnau is the Chief Executive Officer of ANI.

Request No. 27:

27. At some time during the period December 2001 to the present, Michael Arnau was an executive of NOSVA.

Objections and Response to Request No. 27:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Vague and ambiguous with respect to the term “executive.” Without waiving said objections, denied.

Request No. 28:

28. At some time during the period December 2001 to the present, Michael Arnau was an officer of NOSVA.

Objections and Response to Request No. 28:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, denied. NOSVA is a limited partnership without corporate officers.

Request No. 29:

29. At some time during the period December 2001 to the present, Rosetta Delug or the Rosetta Delug Family Trust was a director of NOS.

Objections and Response to Request No. 29:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 30:

30. At some time during the period December 2001 to the present, Rosetta Delug or the Rosetta Delug Family Trust owned 50% of the capital stock of NOS.

Objections and Response to Request No. 30:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 30:

31. At some time during the period December 2001 to the present, Rosette Delug or another representative on behalf of the Rosetta Delug Family Trust was an executive of NOSVA.

Objections and Response to Request No. 31:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Vague and ambiguous with respect to the term "executive." Without waiving said objections, denied.

Request No. 32:

32. At some time during the period December 2001 to the present, Karol Frodsham was a director of NOS.

Objections and Response to Request No. 32:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 33:

33. At some time during the period December 2001 to the present, Karol Fordsham was an executive of NOSVA.

Objections and Response to Request No. 33:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Vague and ambiguous with respect to the term “executive.” Without waiving said objections, denied.

Request No. 34:

34. NOS, ANI, and NOSVA are alter egos.

Objections and Response to Request No. 34:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Vague and ambiguous with respect to the term “alter egos.” Interpretation of the phrase “alter egos” requires a legal conclusion. Without waiving said objections, denied.

Request No. 35:

35. During the period December 2001 through September 2002, section 201(b) of the Act³ required that “[that] all charges, practices, classifications, and regulations for and in connection with such communication service, shall be just and reasonable, and any

³ 47 U.S.C. § 201(b).

such charge, practice, classification, or regulation that is unjust or unreasonable is hereby declared to be unlawful.”

Objections and Response to Request No. 35:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Interpretation of the phrase “section 201(b) of the Act required [footnote omitted]” requires a legal conclusion. The section speaks for itself.

Request No. 36:

36. During the period December 2001 through September 2002, section 258(a) of the Act⁴ prohibited a common carrier from executing “a change in a subscriber’s selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe.”

Objections and Response to Request No. 36:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Interpretation of the phrase “section 258(a) of the Act prohibited [footnote omitted]” requires a legal conclusion. The section speaks for itself.

Request No. 37:

37. During the period December 2001 through September 2002, section 64.1120(c) of the Commission’s Rules⁵ prohibited NOS/ANI from submitting an order to change a subscriber’s carrier except where the order was confirmed in accordance with prescribed procedures, including the subscriber’s execution of a written or electronic[] authorization.

⁴ 47 U.S.C. § 258(a).

⁵ 47 C.F.R. § 64.1120(c).

Objections and Response to Request No. 37:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Interpretation of the phrase “section 64.1120(c) of the Commission’s Rules prohibited [footnote omitted]” requires a legal conclusion. The section speaks for itself.

Request No. 38:

38. During the period December 2001 through September 2002, section 64.1130 of the Commission’s Rules⁶ permitted a carrier to submit an order to switch a subscriber’s carrier using a written letter of agency (“LOA”) signed by the subscriber authorizing the switch.

Objections and Response to Request No. 38:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection Interpretation of the phrase “section 64.1130 of the Commission’s Rules permitted [footnote omitted]” requires a legal conclusion. The section speaks for itself.

Request No. 39:

39. During the period December 2001 through September 2002, the use of misleading statements and intentional misrepresentation to obtain an LOA violated section 258 of the Act.⁷

Objections and Response to Request No. 39:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Interpretation of the phrase “violated section 258 of the Act” requires a legal conclusion. The section speaks for itself.

⁶ 47 C.F.R. § 64.1130.

⁷ 47 U.S.C. § 258.

Request No. 40:

40. During the period December 2001 through September 2002, the use of misleading statements and intentional misrepresentation to obtain an LOA violated sections 64.1120(c) and 64.1130 of the Commission's Rules.⁸

Objections and Response to Request No. 40:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Interpretation of the phrase "violated sections 64.1120(c) and 64.1130 of the Commission's Rules [footnote omitted]" requires a legal conclusion. The section speaks for itself.

Request No. 41:

41. During the period December 2001 through September 2002, the use of misleading statements and intentional misrepresentation to obtain an LOA violated section 201(b) of the Act.⁹

Objections and Response to Request No. 41:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Interpretation of the phrase "violated section 201(b) of the Act [footnote omitted]" requires a legal conclusion. The section speaks for itself.

Robert Faulkner Affidavit

Request No. 42:

42. Robert Faulkner was employed by NOS/ANI at 4380 Boulder Highway, Las Vegas, NV 89121 from October 1996 to April 2002.

⁸ 47 C.F.R. §§ 64.1120(c), 64.1130.

⁹ 47 U.S.C. § 201(b).

Objections and Response to Request No. 42:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 43:

43. Mr. Faulkner's last title as an employee of NOS/ANI was Executive Director of Accounts Receivables and Collection.

Objections and Response to Request No. 43:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 44:

44. As Executive Director of Accounts Receivable and Collections, Mr. Faulkner supervised the collection activities of NOS/ANI.

Objections and Response to Request No. 44:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Vague and ambiguous with respect to the phrase "supervised the collection activities of NOS/ANI." Without waiving said objections, admitted that Faulkner had a supervisory role pertaining to the collection activities of the Companies.

Request No. 45:

45. During the period 1996 through 2002, NOS operated with its subsidiaries and affiliates ANI and NOSVA, from a shared facility in Las Vegas, NV.

Objections and Response to Request No. 45:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Vague and ambiguous with respect to the phrase “operated with its subsidiaries and affiliates ANI and NOSVA, from a shared facility in Las Vegas, NV.” Without waiving said objections, admitted.

Request No. 46:

46. During the period December 2001 to April 2002, NOS/ANI had a department called the Quality Assurance Department.

Objections and Response to Request No. 46:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Vague and ambiguous with respect to the phrase “had a department called the Quality Assurance Department.” Without waiving said objections, admitted.

Request No. 47:

47. NOS/ANI’s Quality Assurance Department engaged in NOS/ANI’s winback activities.

Objections and Response to Request No. 47:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 48:

48. During the period December 2001 through May 2002, NOS/ANI employees involved in winback activities earned commissions based on the number of former customers the employee induced to execute NOS/ANI LOAs.

Objections and Response to Request No. 48:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Vague and ambiguous with respect to the phrase "induced to execute."

Without waiving said objections, denied.

Request No. 49:

49. During the period June 2002 to April 2003, NOS/ANI employees involved in winback activities earned commissions based on the number of former customers the employee induced to execute NOS/ANI LOAs.

Objections and Response to Request No. 49:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Vague and ambiguous with respect to the phrase "induced to execute."

Without waiving said objections, denied.

Request No. 50:

50. During the period June 2002 to April 2003, the purpose of NOS/ANI's winback activities was to induce former customers that had switched their telephone service provider from NOS/ANI to authorize a switch back to NOS/ANI.

Objections and Response to Request No. 50:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Denied as stated. Admitted that one purpose of the Winback I activity of the Companies was to maintain customers.

Request No. 51:

51. The purpose of NOS/ANI's winback activities continues to be to induce former customers that had switched their telephone service provider from NOS/ANI to authorize a switch back to NOS/ANI.

Objections and Response to Request No. 51:

The Companies hereby incorporate their General Objections to the extent applicable. Subject to, and without waiving their objections, the Companies respond as follows:

Denied as stated. Admitted that one purpose of the Winback I activity of the Companies was to maintain customers.

Request No. 52:

52. During the period December 2001 to May 2002, NOS/ANI had a telephone monitoring system referred to as "NICE."

Objections and Response to Request No. 52:

The Companies hereby incorporate their General Objections to the extent applicable. Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Vague and ambiguous with respect to "had a telephone monitoring system referred to as 'NICE.'" Without waiving said objections, admitted the Companies maintained such a system.

Request No. 53:

53. The NICE telephone monitoring system gave authorized personnel access to live or previously recorded (archived) telephone calls throughout the company.

Objections and Response to Request No. 53:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Objection. Vague and ambiguous with respect to “gave authorized personnel access to live or previously recorded (archived) telephone calls throughout the company.” Without waiving said objections, admitted the Companies maintained a system allowing a limited amount of personnel limited access to certain telephone calls.

Request No. 54:

54. The NICE system permitted recorded conversations to be sent electronically via “wav” files.

Objections and Response to Request No. 54:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, admitted.

Request No. 55:

55. During the period December 2001 to May 2002, Bill Fleischman oversaw the operations of the NICE system of NOS/ANI.

Objections and Response to Request No. 55:

The Companies hereby incorporate their General Objections to the extent applicable.

Subject to, and without waiving their objections, the Companies respond as follows:

Without waiving said objections, denied.

Request No. 56:

56. During the period December 2001 to May 2002, Nate Brown was the Vice President of Information Systems of NOS/ANI.